

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
<b>FAMILY LIFE EDUCATIONAL</b>	)	EB-02-IH-0483
<b>FOUNDATION</b>	)	Facility #43156
	)	NAL/Account No. 200232080022
	)	FRN #0007570518
Licensee of Noncommercial Educational Radio	)	
Station KOUZ(FM), Alexandria, Louisiana		

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: August 27, 2002**

**Released: August 28, 2002**

By the Chief, Enforcement Bureau:

**I. Introduction**

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Family Life Educational Foundation ("Family Life"), licensee of noncommercial educational radio station KOUZ(FM), Alexandria, Louisiana, apparently violated Section 399B of the Communications Act of 1934, as amended ("the Act"), 47 U.S.C. § 399b, and Section 73.503 of the Commission's rules, 47 C.F.R. § 73.503, by willfully and repeatedly broadcasting advertisements. Based on our review of the facts and circumstances of this case, we conclude that Family Life is apparently liable for a monetary forfeiture in the amount of Two Thousand Dollars (\$2,000.00).

**II. Background**

2. This case arises from a complaint alleging that noncommercial station KOUZ(FM) broadcast prohibited underwriting announcements on March 7, 2002. The complaint alleges that KOUZ(FM)'s broadcast of prohibited advertisements has continued since July, 2000, when we cautioned Family Life to comply with our underwriting rules following an earlier complaint.<sup>1</sup> By letter dated June 11, 2002, we inquired of the licensee.

3. Advertisements are defined by the Act as program material broadcast "in exchange for any remuneration" and intended to "promote any service, facility, or product" of for-profit entities. 47 U.S.C. § 399b(a). As noted above, noncommercial educational stations may not broadcast advertisements. Although contributors of funds to noncommercial stations may receive on-air acknowledgements, the Commission has held that such acknowledgements may be made for identification purposes only, and should not promote the contributors' products, services, or business.

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<sup>1</sup> See Letter of the Chief, Investigations and Hearings Division, Enforcement Bureau, to Family Life Educational Foundation (KOUZ(FM)), dated July 12, 2000.

4. Specifically, such announcements may not contain comparative or qualitative descriptions, price information, calls to action, or inducements to buy, sell, rent or lease. *See Public Notice, In the Matter of the Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations* (1986), republished, 7 FCC Rcd 827 (1992) (“*Public Notice*”). At the same time, however, the Commission has acknowledged that it is at times difficult to distinguish between language that promotes versus that which merely identifies the underwriter. Consequently, it expects only that licensees exercise reasonable, good-faith judgment in this area. *See Xavier University*, 5 FCC Rcd 4920 (1990).

### III. Discussion

5. At issue are three underwriting announcements admittedly broadcast by the station earlier this year. Family Life contends that two of the announcements, those made on behalf of Emmanuel Christian Books and Music and The Lifestyle 2002 Home Show, comply with Section 399B of the Act because the former message was aired as a “public service announcement,” for which the licensee did not receive consideration, and the latter announcement was broadcast on behalf of a non-profit trade organization. However, Family Life admits that the announcement made on behalf of Turning Point Solutions Group was promotional, and, because it was aired in exchange for consideration and on behalf of a for-profit sponsor, it violates Section 399B of the Act. Family Life claims that the Turning Point announcement was aired once a day from February 19 to March 10, 2002; from March 12 to April 2, from April 5 to April 18, on May 20, May 22, and from May 24 to June 17, 2002. Family Life further represents that the announcement was aired twice a day on April 19, May 19, May 21, and May 23, for a total of 120 times.<sup>2</sup>

6. The licensee also acknowledges that it has not been sufficiently diligent in overseeing its staff’s preparation of underwriting announcements but claims that it has, since receiving our latest inquiry, taken corrective action in order “to avoid future lapses.” Family Life also asserts that it receives only a modest station income and that this constraint has diminished its ability to hire qualified and knowledgeable station personnel properly versed in enhanced underwriting policy. Until it is able to hire such personnel, Family Life represents that its president, A.T. Moore, will personally participate in the review process.

7. We have carefully reviewed the allegations and evidence in this case, and find that Family Life’s broadcast of the announcement made on behalf of Turning Point Solutions Group exceeded the bounds of what is permissible under Section 399B of the Act, and the Commission’s pertinent rules and policies, in light of the “good faith” discretion afforded licensees under *Xavier, supra*. In this regard, the announcement seeks impermissibly to distinguish favorably the underwriter from its competitors by implying that it offers superior service, and also urges business patronage. We further note that, on July 12, 2000, we cautioned Family Life regarding its broadcast of similarly impermissible underwriting announcements, and that our prior warning has evidently gone unheeded. Moreover, we do not find mitigating Family Life’s claim, even if true, that its inability to afford to hire properly trained personnel contributed to its apparent rule violation. Noncommercial licensees are responsible for complying with Section 399B of the Act. *See, e.g., Minority Television Project, Inc.* (DA 02-1945), \_\_\_ FCC Rcd \_\_\_ (released August 9, 2002). Consequently, we believe a monetary sanction appears warranted. Section 1.80 of the Commission’s rules specifies that the base amount for an underwriting rule violation is \$2,000. In this case, we believe that no adjustment upward or

<sup>2</sup> See Attachment 1 to Family Life’s Response dated July 8, 2002.

downward is warranted and that the base forfeiture amount is appropriate. *See* 47 C.F.R. § 1.80(b)(4).

#### IV. Ordering Clauses

8. In view of the foregoing, we conclude that a monetary sanction is appropriate. Accordingly, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80 of the Commission's rules, Family Life Educational Foundation, licensee of noncommercial educational station KOUZ(FM), Alexandria, is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of Two Thousand Dollars (\$2,000.00) for willfully and repeatedly broadcasting advertisements in violation of Section 399B of the Act, 47 U.S.C. § 399b, and Section 73.503 of the Commission's rules, 47 C.F.R. § 73.503, approximately 120 times from February 19, 2002 through June 17, 2002.

9. IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission's rules, that within thirty days of the release of this Notice, Family Life SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment MUST INCLUDE the FCC Registration Number (FRN) referenced above and also should note the NAL/Acct. No. referenced above.

11. The response, if any, must be mailed to Charles W. Kelley, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Room 3-B443, Washington DC 20554 and MUST INCLUDE the NAL/Acct. No. referenced above.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the respondent's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>3</sup>

14. IT IS FURTHER ORDERED that a copy of this Notice shall be sent, by Certified Mail/Return Receipt Requested, to Family Life Educational Foundation, 6652 North Club Drive, Shreveport, Louisiana 71107.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau

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<sup>3</sup> *See* 47 C.F.R. § 1.1914.

**ATTACHMENT**

The following text was transcribed from an underwriting announcement broadcast on KOUZ(FM), Alexandria, Louisiana, during the period February 19, 2002 through May 23, 2002.

**Turning Point Solutions Group**

Did the last computer technician you called leave you with more wires disconnected than connected? Let me introduce you to the Rely-A-Tech program from Turning Point Solutions Group. Rely-A-Tech is a commitment between you and Turning Point to ensure your systems receive regular attention to keep them healthy. Don't wait 'til problems cause breakdowns or to find out your back-up system's not backing you up. Turning Point Solutions Group can help your system meet its business needs. Turning Point Solutions. 442-0044.